17

S.B. CIVIL MISC. APPEAL NO.1911/2007.

Smt. Kanchan Devi & Anr.
Vs.
Narendra Kumar & Ors.

Date of Order :: 13th August 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajesh Panwar with
Mr. S.K. Sankhla, for the appellants.

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BY THE COURT:

For awarding compensation to the parents of about 25 years old vehicular accident victim Sunil, the Tribunal has noticed the assertion of the claimants that the deceased was working as Supervisor in a firm Jangid Vishwakarma Chemicals and was earning Rs.6,000/- per month in salary; has also examined the documentary evidence produced by the claimants in the form of Income-tax Returns Exs. 12 and 13 and the Salary Certificates Exs. 14 and 15; has found that the returns Exs. 12 and 13 were filed respectively on 29.10.2005 and 31.10.2006, i.e. after the accident that occurred on 08.10.2005; and has also found that the salary certificates Exs. 14 and 15 were issued by none other than the father of the victim, AW-1 Indra Raj, as partner of the said firm and has considered such salary certificates not worth reliance for being in the nature of admission in their own favour by the claimants. Thus, the Tribunal has rejected the assertion of the

claimants on the income of the deceased at Rs.72,000/- per annum, has taken his notional income at Rs.15,000/- per annum, and after deducting one-third wherefrom and with application of multiplier of 17, has assessed pecuniary loss for the claimants at Rs.1,70,000/-. The Tribunal has further allowed Rs.1,000/- towards transportation, Rs.2,000/- towards funeral expenses, Rs.500/- towards property loss, and Rs.20,000/- towards mental agony and loss of services; and in this manner has assessed total loss for the claimants at Rs.1,93,500/-; and while awarding compensation in this amount has also allowed interest @ 6% per annum from the date of filing of the claim application. The claimants seek enhancement by way of this appeal.

Learned counsel for the appellants has strenuously contended that the Tribunal has been in error in taking only Rs.15,000/- towards notional income of the victim and taking such figure as static income of the deceased and in not considering the component of his earnings in future and in not relying on the documentary evidence produced on record. The submissions can only be rejected as being absolutely baseless.

It is noticeable from the observations made by the Tribunal that the claimants, in order to assert excessive earnings of the deceased, adopted a strange course whereby

the father of the deceased himself issued certificates of making payment in the sum of Rs.6,000/- per month to his victim son from his partnership firm and then filed one tax return for the victim on 29.10.2005, i.e. about 21 days after the incident and another tax return on 31.10.2006, i.e. after filing of the claim application. It is obvious that the claimants had not been forthright in their submissions before the Tribunal and by way of apparently cooked up evidence, suggested earnings of the deceased as Supervisor in his father's business concern.

It is further noteworthy that the deceased was an unmarried person in about 25 years of age. Looking to the future scenario, likelihood of his getting married and thereby a larger part of his income and efforts getting diverted to his own family cannot be ignored and, therefore, the assessment of multiplicand at Rs.10,000/- per annum in this case does not appear inadequate. The Tribunal has erred, if at all, in favour of the claimants and not against them in assessing pecuniary loss by application of multiplier of 17 ignoring the age of the claimants at 45 and 49 years respectively. Even while adopting multiplier as per Second Schedule to the Act, the assessment of pecuniary loss could not have been made in this case with application of any multiplier beyond 13.

Thus, in the ultimate analysis, the amount of

compensation as awarded by the Tribunal at Rs.1,93,500/- could only be said to be rather on the higher side; and rules out any scope for enhancement.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

Mohan/